

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHANNON M. BLICK,

Case No. 2:19-cv-12127

Plaintiff,

Hon. Stephanie Dawkins Davis
Magistrate Judge: Anthony P. Patti

v.

ANN ARBOR PUBLIC SCHOOL
DISTRICT, ANN ARBOR BOARD OF
EDUCATION, SHONTA A.
LANGFORD, individually and in
her official capacity, DAWN LINDEN,
individually and in her official capacity,
DAVID A. COMSA, individually and in
his official capacity, JEANICE KERR
SWIFT, individually and in her official
capacity, TANEIA GILES, individually
and in her official capacity, and MIKE
MADISON, individually and in his
official capacity,

Defendants, jointly and severally.

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S
SECOND MOTION FOR EVALUATION OF SUPPLEMENTAL
MATERIALS OPPOSING DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S FIRST AMENDED COMPLAINT
UNDER FED. R. CIV. P. 12(b)6**

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RULES

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NOW COMES Defendant, Ann Arbor Public Schools (“AAPS”), The Ann Arbor Board of Education (“BOE”), Shonta A. Langford (“Langford”), Dawn Linden (“Linden”), David A. Comsa (“Comsa”), Jeanice Kerr Swift (“Swift”), Tanea Giles, (“Giles”) and Mike Madison (“Madison”), collectively (“Defendants”), by their attorneys, Clark Hill PLC, and object to Plaintiff’s Second Motion for Evaluation of Supplemental Materials Opposing Defendants’ Motion to Dismiss Plaintiff’s First Amended Complaint. *[ECF 25, Page ID #620-648]*

STATEMENT OF FACTS

1. On November 11, 2019, Defendants filed their Motion to Dismiss Plaintiff’s First Amended Complaint. *[ECF 16, Page ID #146-230]*.
2. On December 2, 2019 Plaintiff Shannon Blick (“Plaintiff”), first filed a Response to Defendants’ Motion to Dismiss Plaintiff’s First Amended Complaint, which was stricken by the Court because it exceeded the page limitations allowed (twenty-five pages) by the Court pursuant to E.D. Mich. Local Rule (“L.R.”) 7.1(d)(3). *[ECF 18, Page ID #236-464]*.
3. On December 6, 2019, the Court ordered Plaintiff’s Response stricken, but allowed a response of twenty-five (25) pages, in accordance with L.R. 7.1. *[ECF 19, Page ID #465]*.

4. Plaintiff's Supplemental Materials Opposing Defendants' Motion to Dismiss Plaintiff's First Amended Complaint under Fed. R. Civ. P. 15(d) should have been limited to a Motion to File the Supplemental Pleading with reasons and law to support the Motion.
5. Plaintiff instead has sought to reargue the Motion to Dismiss which this Court heard on June 9, 2020.
6. Plaintiff has cited no case law decided after December 2019.
7. Plaintiff had already complained about Ann Arbor Public Schools filing a criminal complaint with the Ann Arbor Police Department alleging fraud and theft involving the loss of \$24,879.06 against Willie Johnson and Plaintiff in July of 2019. [*Amended Complaint, ECF 14, Page ID #87-138 at ¶¶27, 32, 99, 100, 103, 107, 130, 132*].
8. After a year, Ann Arbor Public Schools appointed a new Principal for the Lawton Schools in August, 2020.
9. AAPS informed Plaintiff's counsel that a new Principal for Lawton Schools was being appointed in August before it was publicly announced.
10. These matters have been fully briefed in accordance with L.R. 7.1.
11. Plaintiff's status has not changed; she continues to receive full pay and full benefits while on paid administrative leave while the school district continues to investigate and awaits the outcome of the criminal proceedings.

ARGUMENT

Plaintiff Shannon Blick is a Caucasian Principal of Ann Arbor Public Schools on administrative leave receiving full pay and full benefits while the school district completes its investigation. She has not resigned nor has she been discharged. The Defendants filed a Motion to Dismiss Plaintiff's First Amended Complaint on November, 11, 2019. *[ECF 16, Page ID #146-230]*. Plaintiff filed a response stricken by the Court in an Order filed December 6, 2019 because the response far exceeded twenty-five (25) pages without permission of the Court. *[ECF 19, Page ID #465]*. Plaintiff filed a Response accepted by the Court on December 9, 2019. *[ECF 21, Page ID #467-606]*. Defendants filed their reply brief on December 19, 2019. *[ECF 22, Page ID #607-615]*. Oral argument was on June 9, 2020.

On Wednesday, September 9, 2020, Defendants' counsel received a telephone call at home at approximately 11:15 p.m. indicating that Plaintiff wanted to file a Second Motion for Evaluation of Supplemental Materials Opposing Defendants' Motion to Dismiss. Plaintiff's Motion had not been provided. Defendants' counsel did not concur in the Motion and told Plaintiff's counsel that instead of calling after 11:00 p.m. he could have been civil and waited until morning as no emergency relief was sought.

As this matter has been outstanding for more than a year, Ann Arbor Public Schools appointed a new Principal at Lawton Schools. In August, Counsel for Plaintiff was informed that a new Principal was being named before it was announced. The new appointment did not impact Plaintiff's current status on administrative leave with full pay and benefits.

Plaintiff had already complained that Ann Arbor Public Schools had filed a criminal complaint with the Ann Arbor Police Department alleging fraud and theft involving the loss of \$24,879.06 against Willie Johnson and Plaintiff in July of 2019 in its Amended Complaint. [*Amended Complaint, ECF 14, Page ID #87-138 at ¶¶27, 32, 99, 100, 103, 107, 130, 132*]. The criminal matter has been delayed because of the pandemic. This matter has been briefed by both parties with respect to the pending Motion to Dismiss and was argued on June 9, 2020.

Plaintiff cites no cases or relevant facts that have occurred since the Motion to Dismiss was filed and briefed. Plaintiff's status has not changed. She is still receiving full pay and benefits while on administrative leave. Plaintiff's Second Motion for Evaluation of Supplemental Materials Opposing Defendants' Motion to Dismiss Plaintiff's First Amended Complaint should therefore be denied because the new facts are not relevant

Plaintiff cites no new case law that overturns the Sixth Circuit holding in *Sensabough v. Halliburton*, 937 F.3d 621 (6th Cir. 2019). In fact, they attempt to

mislead this Court by citing old cases that have, by implication, been overturned by the more recent, relevant case law.

AAPS is being careful not to jump ahead of the related prosecution in the Willie Johnson case that has been delayed by the pandemic. That case is presently scheduled for a preliminary hearing on October 1, 2020.

Wherefore, Defendants respectfully request that this Honorable Court enter an Order denying Plaintiff's Second Motion for Evaluation of Supplemental Materials Opposing Defendants' Motion to Dismiss Plaintiff's First Amended Complaint and sanctioning Plaintiff's counsel for filing it by paying Ann Arbor Public Schools attorneys' fees and costs, in the Court's discretion, under Fed. R. Civ. P. 11 and 28 U.S.C. §1927.

Respectfully submitted,
CLARK HILL PLC

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Dated: September 28, 2020

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2020, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record.

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Dated: September 28, 2020